

LICENSE AGREEMENT FOR USE OF THE COLLEGE OF ALAMEDA SOCCER FIELDS

This License Agreement ("*Agreement*") is entered into, as of July 30, 2015 (the "*Effective Date*") by and between the Peralta Community College District ("*PCCD*") for its College of Alameda ("*COA*") (together, the "*District*"), a public entity organized and existing under the laws of the State of California, and Tenacity Lacrosse Organization, Inc. ("*TLO*"), a Delaware corporation.

Recitals

WHEREAS, TLO is a community athletic organization and desires to utilize COA's fields for purposes of it hosting lacrosse club teams, summer camps and summer leagues in the Bay Area (the "*Athletic Purposes*");

WHEREAS, COA wishes to establish a stronger partnership with its neighbors and have COA serve as a neighborhood college for the residents of the County of Alameda;

WHEREAS, TLO has indicated its intention to donate or cause another to donate \$500,000 to the Peralta Community Colleges Foundation (the "*Donation*"), no later than August 17, 2015 in furtherance of COA's outreach efforts to make college more accessible, the expectation on which COA has relied; and

WHEREAS, the District is willing to license the Athletic Premises described herein on the terms and conditions set forth herein.

NOW THEREFORE, in reliance on these recitals and in consideration of the mutual agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. LICENSE

(a) ***Athletic License***. The District agrees to grant to TLO a non-exclusive, irrevocable (except for "*cause*" as defined below) right to use (the "*Athletic License*") certain of COA's synthetic turf soccer fields and goal posts, the all-weather track surrounding the soccer fields, the associated bleachers and bathroom facilities bound by the current fencing and a classroom or the gym, as appropriate, depending on team meeting size and availability, all as shown on Exhibit A hereto (collectively, the "*Athletic Premises*") for the Athletic Purposes on the terms and conditions set forth herein, on those days and at those times set forth in Exhibit B.

(b) The commencement of the Athletic License is expressly conditioned on the full execution of this Agreement and either (x) the obtaining by TLO of Internal Revenue Code 501(c)(3) non-profit tax-exempt status from the Internal Revenue Service by December 31, 2015; or (y) the filing by TLO of an application for such status which is still pending as of December 31, 2015, provided that TLO has as of such date obtained a Fiscal Sponsor which has such non-profit-tax exempt status.

2. TERM

Upon satisfaction of the applicable conditions precedent set forth in Paragraph 1(b), the term of the License to the Premises shall be from January 1, 2016 and shall continue until August 31, 2035 (the "*Term*"), unless earlier terminated in accordance with the terms set forth herein. If TLO does not obtain

tax-exempt status by December 31st, 2015, and does not obtain a Fiscal Sponsor as described in Paragraph 1, above, by such date, COA may nonetheless, at TLO's request, opt to commence the Term and the Athletic License as described herein, however the License Fee (defined herein) shall be calculated at the Fair Rental Value rate set forth in the Fee Schedule (defined herein), unless and until TLO obtains such tax-exempt status, at which time the terms and conditions of the License will revert on a prospective basis to the terms and conditions set forth below, excluding the Fee Schedule.

3. FEES AND CONSIDERATION

(a) TLO shall pay to COA a license fee (the "License Fee") calculated by each hour of use of by TLO of the Athletic Premises. Except as provided above in Section 2, TLO shall be billed at the then applicable hourly rate for the Preferred User established by PCCD's Board of Directors (the "Board") set forth in the PCCD's Administration Procedure 6700 Civic Center and Other Facilities Use (the "Fee Schedule"), a copy of which is attached hereto as Exhibit C. TLO acknowledges that the Board annually reviews the Fee Schedule and reserves the right to unilaterally increase the fees set forth therein. COA will promptly advise TLO of any such changes in the Fee Schedule. In addition to the License Fee, TLO will also be charged for any custodial and/or athletic supervisor services determined by COA to be appropriate and necessary given the day or intended use of the Athletic Premises. COA shall bill TLO monthly, which statement will show the date, facility used, duration of time and any custodial or athletic supervisor services utilized during said month. TLO shall pay each such statement no later than 30 days after receipt of such invoices.

(b) The License Fee includes parking permits for up to 30 coaches per semester, but does not include general parking. TLO shall provide COA annually with a list of names and related information of the coaches for purposes of the permits. Except on weekends, during which parking is free, parking permits must be purchased by any other party attending or participating in a TLO event. Parking permits must be placed on the dashboard. If TLO has any concerns about parking or would like assistance in getting advance parking permits, TLO must contact the COA Facility Coordinator.

4. USES OF THE PREMISES

(a) ***Athletic Premises.*** The Athletic License provided herein allows TLO (and only TLO, its guests and invitees) access to the Athletic Premises to perform the Athletic Purposes, in accordance with the schedule set forth in Exhibit B. At the end of each game/practice day, TLO shall return any equipment to its proper place.

(b) ***Limits on Use.*** TLO shall only use the Athletic Premises on the designated dates and times set forth in Exhibit B. TLO shall advise COA, by September 30th of the desired dates, time and uses of the Athletic Premises for the following calendar year. During such dates and times set forth on Exhibit B, the District shall provide exclusive use of the Athletic Premises to TLO. Dates and times not chosen can be used by COA or other of its licensees. No food or drinks (other than water) are permitted in the soccer stadium. TLO may request additional use of the Athletic Premises, which request must be made to COA's Facility Coordinator not less than five (5) business days before the desired additional dates. COA, in its sole discretion, reserves the right to reject any such requests. Any additional use of the Athletic Premises by TLO shall result in an additional fee (i.e. use and custodial/athletic supervisor, as applicable) in accordance with the then current Fee Schedule. Use by TLO of the Athletic Premises at times other than those designated in Exhibit B or for purposes other than the Athletic Purposes for which consent from COA's Facility Coordinator has not been obtained, will constitute a material breach of this

Agreement. ***TLO shall not use nor permit the use of the Athletic Premises by any party other than TLO, with the exception of other clubs or teams against whom TLO is at such time engaged in a competitive game or scrimmage.***

TLO acknowledges and agrees that: (i) no vehicles, bikes, skateboards or rollerblades are permitted on the Athletic Premises; (ii) no alcohol, smoking or overnight parking is permitted on the Athletic Premises or on any part of COA's campus; and (iii) only for the benefit of the educational, academic or financial purposes in the best interest of COA, the District and/or its students, COA may at its discretion and in good faith, from time to time and upon advance written notice to TLO, change its use of the Athletic Premises to a different date or a different space (acceptable in each case to TLO).

(c) ***Contacts and supervision.*** TLO will appoint an individual who shall be responsible for serving as a point of contact and providing suitable supervision of the Athletic Premises (the "*TLO Contact*"). The TLO Contact will be instructed as to any rules or regulations relating to use of the Athletic Premises, including the materials prohibited from being brought inside the Athletic Premises and is responsible for enforcing such rules and prohibitions. COA reserves the right for it to have an Athletic Supervisor present, from time to time at its discretion, at TLO events or activities, and monitor TLO's use of the Athletic Premises. The Athletic Supervisor, or his/her designee, will also be available to assist with attendees who require additional monitoring or removal from the Athletic Premises.

5. MAINTENANCE AND IMPROVEMENTS

(a) TLO shall make reasonable use of the Athletic Premises and avoid any excessive wear and tear of the Athletic Premises and all areas used by TLO or its officers, agents, employees, volunteers, program participants or other visiting clubs (each, a "*TLO Party*" and together with TLO, the "*TLO Parties*") to the satisfaction of COA's Facility Coordinator. TLO shall make no alterations to or improvements of the Athletic Premises, without prior approval of and direction from COA's Facility Coordinator, which approval may be granted or withheld at his/her sole discretion.

(b) The District shall reasonably maintain the Athletic Premises so that it is suitable for TLO and its opponents for playing competitive lacrosse games, including a reasonable level and uniform playing surface, and adequate water drainage to prevent areas of standing water on the playing field, and to maintain the bleachers utilizing reasonable care. COA has advised TLO that COA does not provide lighting for the fields, that lighting currently on the Athletic Premises is owned by St. Joseph's High School, and that if TLO wishes to have lighting for any of its games, it must make arrangements with St. Joseph's therefor. If St. Joseph's lighting is not available for use, then TLO and COA will work together to see if there is other space available at an early time for which lighting may not be necessary. TLO must also work out lining of the fields with St. Joseph's. Responsibility for lining the fields is to be shared between St. Joseph's and TLO. COA shall not be responsible for lining the fields and the lining done by TLO shall be accomplished in such a manner as does not prevent other uses of the fields. TLO has inspected the Athletic Premises and determined that they are suitable for their respective purposes as described herein. COA and the District shall pay for any general maintenance work required under this Agreement (not necessitated by TLO's use) from the License Fee paid by TLO, and shall not bill or invoice TLO any additional sums therefor, except for damage (in excess of normal wear and tear).

6. INSURANCE

(a) TLO agrees to maintain and keep in full force and effect during the Term hereof the following types of insurance in the amounts as set forth below.

General Commercial Liability (General Aggregate)	MINIMUM \$3,000,000
Each Occurrence	MINIMUM \$1,000,000
Fire Damage	MINIMUM \$1,000,000
Medical Expense (anyone person)	MINIMUM \$ 5,000
Property Damage (Excluding Earthquake)	MINIMUM \$1,000,000
Worker’s Compensation (if TLO has employees)	Statutory coverage as required by the state of California
Automotive Liability	
Bodily Injury	MINIMUM \$1,000,000 (occurrence/aggregate)
Property Damage	MINIMUM \$1,000,000 (occurrence/aggregate)
Accident Coverage	MINIMUM \$1,000,000 (occurrence/aggregate)

(b) PCCD, COA, its Board of Trustees, officers, employees, and agents (each, a “PCCD Party” and collectively the “PCCD Parties”) shall be named as additional insureds under all insurance, with the exception of worker’s compensation, which insurance shall provide coverage for the Athletic Premises and any and all activities by the TLO Parties, including those of its employees, agents, program participants and volunteers. Naming the PCCD Parties as additional insureds shall not affect any recovery to which they would be entitled under said policy if not named as such additional insureds and the PCCD Parties shall not be held liable for any premium, or deductible portion of any loss or expense of any nature on these policies or any extension thereof.

(c) On or before the commencement of the Term of this Agreement and for each year during the Term hereof, TLO shall furnish the District with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the District’s requirements set forth above. Should any of the insurance covered by these certificates expire, be canceled or coverage reduced before the expiration date of this Agreement, TLO shall direct the applicable insurer to provide thirty (30) days advance notice to the District by certified mail to the attention of COA’s Director of Business and Administrative Services, MaryBeth Benvenuti, mbbenvenuti@peralta.edu, at the following address: College of Alameda, 555 Ralph Appezato Memorial Parkway, Alameda, CA 94501.

(d) The insurance limits required by the District are not represented as being sufficient to protect TLO. TLO is advised to confer with its insurance broker to determine adequate coverage for TLO. The insurance requirements hereunder shall not limit or relieve TLO of its duties, responsibilities or liabilities under this Agreement. If TLO obtains one or more claims-made insurance policies to fulfill its obligations under this Paragraph 6, TLO will, to the satisfaction of the District, (i) maintain coverage with

the same company during the terms of this Agreement and for at least four (4) years following termination hereof, or (ii) purchase or provide coverage that assures protection against claims based on acts or omissions that occur during the period of this Agreement but which are asserted after the claims-made insurance policy has expired.

(e) TLO hereby grants to the District, on behalf of any insurer providing comprehensive general and automotive liability insurance to TLO or the PCCD Parties, as additional insureds, a waiver of any right to subrogation that any such insurer may acquire against the District by virtue of the payment of any loss under such insurance.

7. COMPLIANCE WITH LAW AND SAFETY

(a) If death, serious personal injury, or property damage occurs in, on, or about the Athletic Premises, TLO shall immediately notify COA's Facilities Coordinator by telephone and email. TLO shall also promptly make COA's Facilities Coordinator aware of any complaints or problems reported by the neighborhood.

(b) Each party to this Agreement shall be required to comply with all statutes, ordinances and requirements of all local, state and federal authorities now in force, or which may hereafter be in force, as applicable to it, including, without limitation, those pertaining to TLO's use of the Athletic Premises, its organization, its performance of the lacrosse activities contemplated by this Agreement and all reasonable District rules and regulations; provided that as between the District's policies on termination of agreements such as this Agreement, and the provisions of Paragraph 8, below, Paragraph 8 shall control.

8. TERMINATION

Either party may terminate this Agreement, at any time, upon a material breach of the other party, upon written notice thereto, and an opportunity to cure the complained of breach, as set forth below. For the avoidance of doubt, "material breach" shall mean any of the following:

- (a) a breach by TLO of Paragraph 4 (Use of Premises);
- (b) a breach by TLO or the District of Paragraph 5 (Maintenance and Improvements);
- (c) a breach by TLO of Paragraph 9 (No Sublicense or Assignment);
- (d) a failure by TLO to timely pay any License Fee within thirty (30) days of its due date;
- (e) TLO's loss of use of the Athletic Premises by persons interfering with TLO's exclusive license to use of the Athletic Premises at the dates and times set forth on Exhibit B, after having given COA's Facilities Coordinator written notice thereof and 15 days to cure;
- (f) actions or inactions of TLO or the District which threaten the health or safety of employees or invitees of the District, or employees or invitees of TLO; or
- (g) provided, however, that, neither party (the "*Complaining Party*") may terminate this Agreement unless there has been a material breach by the other party (the "*Breaching Party*"), about which the Complaining Party has notified the Breaching Party in writing with specificity of the acts or omissions complained of, and the Breaching Party has failed or refused to correct the condition or otherwise rectify the situation complained of within thirty days of notice from the Complaining Party; provided further, that if the nature of the complaint is such that more than thirty (30) days are reasonably required for the Breaching Party to correct the complained of condition or otherwise rectify the situation complained

of, then the Complaining Party may not terminate this Agreement if the Breaching Party shall have commenced efforts to cure the complained of act or condition within thirty days of Complaining Party's notice thereof and shall thereafter pursue such efforts to completion within not more than sixty (60) days of Complaining Party's notice to Breaching Party.

Nothing contained herein shall preclude either party, having complained of a health or safety concern pursuant to subparagraph (f), above, from suspending performance of the Complaining Party's obligations under this Agreement (and if the District is the Complaining Party, from prohibiting access to the Athletic Premises during the pendency of any unsafe condition or practice until TLO has corrected the unsafe condition or agreed to correct any unsafe practice, as applicable).

9. NO SUBLICENSE OR ASSIGNMENT

TLO shall not at any time, in any manner, either directly or indirectly, assign, hypothecate, encumber, sublicense or transfer this Agreement or any portion of the License created hereby or permit any other person or entity to occupy, use, or manage the whole or any part of the Athletic Premises. Failure to comply with this provision shall be constitute a material breach of this Agreement. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities that are not a party to this Agreement. The District acknowledges and agrees that such use of the Athletic Premises shall not constitute a sublicense or assignment in violation of TLO's obligations under this Agreement.

10. INDEMNIFICATION

(a) TLO shall indemnify, defend and hold harmless the PCCD Parties from any and all actions, claims, losses, damages, demands or expenses (including, without limitation, all court and/or arbitration costs and reasonable attorney's fees on account thereof) (collectively, "*Claims*") suffered or incurred by the PCCD Parties to the extent arising from or relating to acts or omissions by a TLO Party including, but not limited to:

(i) claims arising out of a failure by a TLO Party to comply with all applicable laws and policies referenced in Section 7; and

(ii) claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of any TLO Party, student or guest;

excluding however the portion of any Claim arising from or relating to the negligence, recklessness or willful misconduct of a PCCD Party.

(b) The District shall indemnify, defend and hold harmless TLO from any and all Claims suffered or incurred by TLO to the extent arising from or related to acts or omissions by COA and the District, including but not limited to:

(i) Claims arising out of a PCCD Party's failure to comply with its obligations under Paragraph 5 (Maintenance and Improvements) of this Agreement; and

(ii) Claims that arise or pertain to the negligence, recklessness, or willful misconduct of the PCCD Parties and the District;

excluding however the portion of any Claim arising from or relating to the negligence, recklessness or willful misconduct of a TLO Party.

(c) This indemnification obligation shall survive the termination or expiration of this Agreement.

11. ENTRY

The District and its authorized representatives shall have the right to enter the Athletic Premises at any reasonable time.

12. COMMUNICATIONS; NOTICES

(a) TLO must direct all questions and concerns relating to the Premises, including, but not limited to, the condition of the Premises, the schedule and permissible uses, and the payment of any License Fee hereunder, to the COA Facilities Coordinator, who shall coordinate further communications on such matters. TLO shall also designate a coordinator to work with COA.

(b) Except as otherwise provided herein, a written notice required hereunder is deemed delivered: (i) when a party delivers the notice personally to the other party; (ii) two business days after a party deposits it with the U.S. Postal Services, registered mail, postage prepaid and correctly addressed to the other party or (iii) one business day after a party deposits it with an overnight courier correctly addressed to the other party. For purposes of this Agreement, notices shall be addressed as follows:

To the District:

College of Alameda
555 Ralph Appezato Memorial Parkway
Alameda, CA 94501
Attention: MaryBeth Benvenuti

cc: Office of the General Counsel
Peralta Community College District
333 E. 8th Street, Oakland, CA 94606

To TLO:

Tenacity Lacrosse Organization, Inc.
1585 62nd Street #8713
Emeryville, CA 94608
Attn: Theresa Sherry

13. TIME OF ESSENCE

Time shall be of the essence for each provision of this Agreement.

14. CONFLICTS OF INTEREST

(a) *District's Conflicts of Interest.* TLO represents that it is familiar with California Government Code Sections 1090 et seq. and 87100 et seq. and that it does not know of any facts that constitute a violation of said sections or of the District's conflict of interest code, Board Policy 6.86. TLO represents that it has completely disclosed to the District, and if applicable will disclose in the future, all facts

bearing upon any possible interests, direct or indirect, which TLO believes any member of the District, or other officer, agent, or employee of the District or any department presently has, or will have, in this Agreement, or in its performance, or in any portion of the profits generated hereunder. If TLO subsequently becomes aware of any such facts, TLO shall promptly provide notice to the District of same, along with a proposal for remedying the violation. The District, at its sole discretion, may determine whether the proposal or any other proposed resolution is satisfactory.

(b) *TLO Conflicts of Interest.* TLO represents that neither it nor its officers presently have, and shall not have during the term of this Agreement, any direct or indirect interest that would conflict in any manner or degree with the transactions contemplated by this Agreement. TLO further represents that it will not employ, subcontract to, or otherwise involve any person or entity having such conflicts of interest in the performance of this Agreement. If TLO subsequently becomes aware of any such conflicts of interest, TLO shall promptly provide notice to the District of same, along with a proposal for remedying the violation. The District at its sole discretion may determine whether the proposal or any other proposed resolution is satisfactory.

15. NON-DISCRIMINATION

TLO agrees to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11246, Peralta Community College District Board Policy 4.03, and all applicable laws, rules, and regulations in regard to non-discrimination and equal opportunity. TLO agrees and assures that it will not discriminate against, permit discrimination against, harass, or permit harassment against any individual because of race, color, religion, creed, national origin, sex, actual or perceived sexual orientation, transgender status at any stage, marital status, disability, medical status or conditions, age, ancestry, gender identity, political affiliation, veteran status, or other personal characteristic protected by law.

16. INVALID PROVISIONS

In the event that any one or more of the sections, paragraphs or portions herein shall for any reason be held or declared to be invalid, illegal or unenforceable in any respect or degree, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of all other sections, paragraphs or portions of this Agreement.

17. ENTIRE AGREEMENT

This Agreement, including the Recitals, attached Exhibits A, B and C, and any documents, provisions of law or District policies attached or referenced herein (which are all incorporated herein by this reference), constitutes the entire agreement between the District and TLO concerning TLO's use of the Athletic Premises and supersedes all prior and contemporaneous negotiations, representations, dealings and agreements, written or oral, relating to the same and may be amended only by a writing signed by authorized representatives of each party and the approval of the District's Board of Trustees or its authorized designee, as applicable. Notwithstanding the foregoing, this Agreement is binding upon and shall inure to the benefit of the respective parties hereto and their successors. The preceding sentence shall not be deemed as a waiver of any of the conditions against sublicensing and assignment set forth above.

18. LICENSE AGREEMENT

This Agreement constitutes a License and does not constitute a lease to the Athletic Premises, and does not create possessory rights in TLO. As such, this License shall be deemed revoked upon the termination of this Agreement for any reason.

19. NO SECURITY SERVICES

The District shall not be responsible for providing security or patrol services to the Athletic Premises or to any person using the Athletic Premises.

20. FORCE MAJEURE

COA's failure to perform any term or condition of this Agreement as a result of conditions beyond its control, such as but not limited to, war, strikes, fires, floods, acts of God, governmental restrictions, power failures, or damage or destruction of any the Athletic Premises or the campus, which prohibit it from making the Premises available, shall not be deemed a breach of this Agreement.

21. DISPUTE RESOLUTION

(a) *Mediation*. If a dispute arises under this Agreement (other than claims for preliminary injunctive relief, other pre-judgment or equitable remedies or indemnification), the parties agree to first attempt in good faith to resolve the dispute with a mutually agreed-upon mediator in Alameda County, California. A party may initiate mediation by sending the other party a written demand for mediation, which demand shall describe with specificity the nature of the dispute. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If the parties are unable to arrive at a mutually satisfactory solution through mediation, or if a mediator has not been chosen and a date set for mediation, within thirty (30) calendar days from the date of the demand for mediation, then the parties hereby agree to submit the dispute to a mutually agreed-upon arbitrator in Alameda County, California, pursuant to the terms of Paragraph 21(b), below.

(b) *Arbitration*. Any action to enforce or interpret this Agreement, or to resolve disputes with respect to this Agreement (other than claims for preliminary injunctive relief or other pre-judgment or equitable remedies, indemnification obligation), shall be settled by binding arbitration in Alameda County, California, in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association, if a mutually satisfactory resolution cannot be reached in mediation or if sufficient steps towards mediation have not been taken pursuant to Paragraph 21(a), above. Arbitration shall be the exclusive dispute resolution process for all claims other than for preliminary injunctive relief or other pre-judgment or equitable remedies. Any party may commence arbitration by sending a written demand for arbitration to the other party and to the American Arbitration Association. Such demand shall set forth the nature of the matter to be resolved by arbitration.

A request for arbitration must be submitted within the same statute of limitation periods that would be applicable in court and must be in writing. If either party fails to submit and serve a written request for arbitration within the applicable statute of limitations, that party agrees that it will have waived any right to raise said claim, in any forum, regarding the dispute. The arbitrator shall be one that is mutually agreeable to both parties. Both parties shall have the right to conduct normal civil discovery, including

the taking of depositions, prior to the arbitration hearing, and specifically agree that the provisions of Section 1283.05 of the California Code of Civil Procedure are incorporated into and made applicable to any arbitration, provided however that the arbitrator will retain his or her statutory discretion under that section to limit the number, and scope of, the depositions. The substantive law of the State of California shall be applied by the arbitrator to the resolution of the dispute.

The arbitrator shall be empowered to award either party any remedy at law or in equity that the prevailing party would otherwise have been entitled to had the matter been litigated in court, including, but not limited to, injunctive relief or specific performance; provided however that the authority to award any remedy is subject to whatever limitations, if any, that exist in the applicable law on such remedies. The arbitrator shall issue a decision or award in writing, stating the essential findings of fact and conclusions of law. The arbitrator shall have no jurisdiction to issue any award contrary to or inconsistent with the law. Following the evidentiary portion of an arbitration hearing, both parties shall have the right to prepare and file with the arbitrator a post-hearing brief not to exceed twenty-five (25) pages in length. Any such brief shall be served on the arbitrator and the other party within thirty (30) days of the close of the evidentiary portion of the hearing, unless the parties agree to some other time period. Should any part of this arbitration provision be declared by a court of competent jurisdiction to be invalid, unlawful or otherwise unenforceable, the remaining part shall not be affected thereby and the parties shall arbitrate their dispute without reference to or reliance upon the invalid, unlawful or unenforceable part of this Agreement.

The parties shall pay their own attorney's fees and costs of any arbitration.

(c) *Tort Claims Act.* No provision of this Agreement shall alter the requirements of the Tort Claims Act, California Government Code Section 810 et seq.

(d) *Forum Selection.* The exclusive venue for all litigation arising from or relating to this Agreement shall be in Alameda County, California.

(e) *Cumulative Remedies.* The remedies provided in this Agreement are cumulative. A party who exercises a right or remedy will not be precluded from asserting any other right or from seeking any other remedies available to that party.

(f) *No Special Damages.* Notwithstanding any other provision, in no event shall any party be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to lost profits or revenue, arising out of or in connection with this Agreement.

(g) *Reserve Right to Offset.* The District reserves the right to offset the reasonable cost of all damages caused to the District against any outstanding invoices or amounts, if any, owed to Licensee.

(h) *Statutes of Limitation.* As between the parties to this Agreement, any applicable statute of limitations for any act or failure to act shall commence to run on the date of the District issuance of the final payment, or termination of this Agreement, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.

22. SOVEREIGN IMMUNITY RESERVED

Nothing herein shall be construed to waive or limit the District's sovereign immunity or any other immunity from suit provided by law.

23. GOVERNING LAW

This Agreement shall be deemed to have been executed in the City of Alameda, Alameda County, California. Enforcement of this Agreement, including arbitration, shall be governed by, and construed and enforced in accordance with, the local, state, and federal laws in effect in Alameda County, California, including but not limited to California Government Code Section 818, but excluding California's conflict of laws principles that would cause the application of laws of any other jurisdiction.

IN WITNESS WHEREOF, the District and TLO have executed this Agreement as of the Effective Date set forth above.

COLLEGE OF ALAMEDA

TENACITY LACROSSE ORGANIZATION, INC.

By: _____
Print Name: Dr. Joi Lin Blake
Its: President
(For Internal Reference Only)

By: _____
Print Name:
Its:

PERALTA COMMUNITY COLLEGE DISTRICT

By: _____
Print Name: Jowell Laguerre, Ed.D
Its: Chancellor
(Authorized Agent)

***Approved as to Legal Form for Peralta Community
College District:***

By: _____

Date: _____

EXHIBIT A – DESCRIPTION OF THE ATHLETIC PREMISES

The Soccer Stadium (comprised of the soccer field and the track circling the soccer field) shown in the attached aerial depiction at Numbers 1, 6 and 3 and the gym or classrooms, as appropriate, at the College of Alameda.



EXHIBIT (A)

EXHIBIT B: APPROVED SCHEDULE OF PERMITTED USE*

SCHEDULE FOR USE OF PREMISES* (2016 THRU 2035)								
Soccer: Stadium (includes field and track)	Weekly (April thru December) Tenacity Lacrosse Club							
		<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u> ¹	<u>Sunday</u>
	Start						12pm	10am
	End						4pm	6pm
Soccer: Stadium (includes field and track)	Summer Camp (June thru 1st Week of August)							
		<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>
	Start	9am	9am	9am	9am			
	End	Noon	Noon	Noon	Noon			
Soccer: Stadium (includes field and track)	Summer League and Fall Ball/Months: June thru 1st Week of August							
		<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>
	Start		6pm summer 4pm fall	6pm summer 4pm fall				
	End		8pm summer 6pm fall	8pm				
Soccer: Stadium (includes field and track)	"Play Dates" ** /Months: One Weekend in each of February, June, August, December							
		<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>
	Start							
	End							
Gymnasium or Classroom of Appropriate Size	Team Meetings/Months: February and March (up to 6 dates on a Saturday or Sunday)							
		<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>
	Start							
	End							

* Exact schedule for each calendar year for each to be provided to College of Alameda by September 30th of the prior year.

** Scrimmages or other activities with other teams or clubs.

¹ Generally only 5 Saturdays each year.

EXHIBIT C: CURRENT FEE SCHEDULE

ADMINISTRATION PROCEDURE 6700 CIVIC CENTER AND OTHER FACILITIES USE**I. Responsibilities**

Each President is responsible for the Civic Center Program at their college and the Vice Chancellor of General Services is responsible for the Civic Center Program at the District Administrative Center (DAC) by:

- A. Identifying those Civic Center Facilities which may be used by the public when such use does not conflict with District programs and operations.
- B. Directing public use of those facilities
- C. Administering appropriate charges as defined in District policy. At the close of each academic year, the college presidents shall review the facility use rate schedule and provide recommended revisions for the next school year to the Chancellor.

II. Delegation

Each president shall designate the business manager to administer the facility use program under his or her authority. The business manager (or the Vice Chancellor of General Services at the DAC) so designated shall:

- A. Provide information to prospective users of the facilities;
- B. Review applications, establish all related costs and maintain financial records for accountability purposes for each facility use;
- C. Obtain all necessary documentation related to each facility use;
- D. Coordinate scheduled uses of facilities with other appropriate campus/District offices involved;
- E. Prepare annual reports of all campus facilities uses.

III. Regulations

- A. The College and District reserves the right to deny an application or revoke any agreement at any time if actions resulting from such application or permission may be harmful to the best interest of the District/College or if there is a conflict with any previously scheduled event. The District/College, at its discretion, has the right to cancel and terminate an agreement immediately and without notice upon its discovery of a violation of any term, condition, or provision of the agreement on the part of the applicant. Should any such violation occur, the District/College, at its discretion, shall have the right to deny any future requests by the applicant for the use of any other District/College property or facilities.
- B. Except as provided by Board Policy or Administrative Procedure, no organizations shall be denied the use of District facilities because of the content of the speech to be undertaken.
- C. Alcoholic beverages and controlled substances are prohibited on all Peralta Community College District property and within the District's facilities. As provided by state law and pursuant to Administrative Procedures 3560, permission may be requested for an exemption to the prohibition against alcoholic beverages if authorized by the Chancellor or College President.
- D. The completed Civic Center application must include a certificate of insurance and a hold harmless and indemnification agreement by the user group accepting financial responsibility for

any losses, damages, or injuries incurred as a result of their use of the facilities. The approved permit must be available for inspection by security and district personnel during the event.

IV. APPLICATION AND APPROVAL PROCESS

Application fee: A \$25.00 application fee must be paid for each request before processing begins. If a Preferred User is granted free use of the facilities, the application fee will be waived or refunded. If a Preferred User is eligible for Preferred User charges, the application fee will be applied to the charges incurred. A facilities use application is not considered approved until all of the following steps have been completed.

- A Obtain an Application for Use of College Facilities form from the Business Manager at the appropriate college or the Vice Chancellor General Services at the DAC.

Berkeley City College	(510)981-2840
College of Alameda	(510)748-2211
Laney College	(510)464-3232
Merritt College	(510)434-3967
Dept. of General Serv.	(510)466-7346

- B. Pay the \$25.00 application fee at the time the completed application form is submitted. **Be sure to specify on the application form what services, equipment, and facilities setup or preparation you are - requesting.**
- C. Pay a \$200.00 security deposit if appropriate. This deposit may or may not be charged to Preferred Users, depending on the nature and scope of the event and the facility requested. All non-Preferred Users are required to pay this security deposit. If a security deposit is made, it will be refunded, or applied to total charges, if, after inspection at the conclusion of the use, it is determined that the facility is in its original condition. College presidents may increase the amount of the security deposit for profit-making activities if the number of expected attendees exceeds 200.
- D. Provide a copy of appropriate insurance certification or purchase appropriate insurance through the college where the facility is to be used.
- E. Obtain written confirmation of facility availability from the appropriate college. **Please do not publicize your event until you receive this written confirmation.**
- F. Pay all applicable charges in full at least ten working days prior to the scheduled event. This includes all personnel, user or fair rental value and equipment fees.

V. REFUND POLICY

All fees except the \$25.00 application fee are refundable if the event is canceled more than ten working days before the scheduled event. The application fee is not refundable. If an event is canceled less than ten working days before it is scheduled to occur, 75 percent of the fees will be refunded. Security deposits are fully refundable if the event is canceled, regardless of the date of cancellation. Preferred Users will be refunded all charges paid. Refunds will be paid within three weeks of written notice of cancellation.

VI. SCHEDULE OF PERSONNEL SERVICES CHARGES

Preferred Users may be charged only for personnel services when the personnel are not regularly on duty. If the event is scheduled at a time when personnel are not normally on duty (such as evenings and weekends), the Preferred User shall be charged only for personnel necessary to open and close the facility, supervision, and janitorial service. The charge for such personnel shall be that necessary to cover anticipated costs of the normal hourly rate paid for the job classification, plus overtime and benefits if applicable. A minimum of four hours of work for each employee must be charged in

accordance with contractual agreements with employees if the schedule of work involves a "call-back" (requiring the employee to report for work at a time not within or contiguous to his or her regularly scheduled shift).

Even if a user of facilities does not request District personnel, the college president may deem it necessary to have District personnel at the event, in which case the user will still be responsible for the costs incurred.

Non-Preferred Users shall be charged for all personnel services necessitated by the organization's use of the facilities if the schedule of work involves a "call-back" (requiring the employee to report for work at a time not within or contiguous to his or her regularly scheduled shift). Charge for each employee per hour is a flat \$25.00 for any type of service provided.

Civic Center Facilities Use Fee Schedule 6700
Preferred and Fair Rental Value

Preferred Users (PU): Public agencies, colleges, non-profit private organized community groups such as youth track club.

Fair Rental Value (FRV): Any group that is not part of the groups referenced above and for profit groups.

FACILITY – COLLEGES	PU/hr. +	FRV/hr. +
Classroom (50 & under)	\$35	\$50
Classroom (51 – 100)	\$55	\$75
Conference Room/Lecture Hall (100+)	\$65	\$90
Forum	\$80	\$160
Theater	\$80	\$160
Music Room	\$40	\$80
Choral Room	\$40	\$80
Student Center	\$75	\$125
<i>Library</i>	<i>Not Available to the Public</i>	
<i>Cafeteria</i>	<i>Not Available to the Public</i>	
<i>Dining Room</i>	<i>Not Available to the Public</i>	
Gym	\$85	\$170
Weight Room	\$80	\$160
<i>Apparatus Room</i>	<i>Not Available to the Public</i>	
Locker Room	\$50	\$50
Swimming Pool	\$110	\$220
Tennis Court*	\$85	\$170
Baseball Field	\$160	\$320
Football Field	\$175	\$350
Track**	\$150	\$300
Parking Lot***	\$80	\$80
Hard Surface	\$50	\$50
Turf Area	\$100	\$100
Dance Studio	\$80	\$80
FACILITY – DISTRICT ADMINISTRATIVE CENTER	PU/Hr.	FRV/hr.
Atrium ***	\$75	\$125
Kitchen ****	\$50	\$100
Boardroom ***	\$75	\$125

- + Cost to rent facilities by the hour. All facilities must be rented for a minimum of three hours.
- * Additional tennis courts are \$15 per hour
- ** Additional \$30 per three hours of light
- *** A \$200 Cleaning deposit is required. Authorization to refund the deposit may be granted by the Director of Facilities Operations if after inspection it is determined that the parking lot has been returned to the original condition.
- **** Certificate of Liability Insurance is required.

ATHLETIC FACILITIES USE FEE SCHEDULE

Definitions:

Special Preferred Users (SPU): Programs sponsored by middle and High Schools in the PCCD service area, who have students the District want to recruit.

Preferred Users (PU): Public agencies, colleges, non-profit private organized community groups such as youth track

Fair Rental Value (FRV): Any group that is not part of the two groups referenced above and for profit groups.

	SPU/Hr.	PU/Hr.	FRV/Hr.	PERSONNEL REQUIRED
Baseball/Softball Fields				
Practice	\$75	\$85	\$170	Supervisor
Game	\$150	\$160	\$320	Supervisor+Grounds
	Flat Fee			
Scoreboard	\$55	\$55	\$110	Operator
Sound System	\$50	\$50	\$100	Operator
	SPU/Hr.	PU/Hr.	FRV/Hr.	
Football Field (3 hr. min)				
Practice	\$100	\$125	\$350	Supervisor
Game	\$150	\$175	\$350	Supervisor+Grounds
	Flat Fee			
Scoreboard	\$75	\$75	\$75	Operator
Sound System	\$75	\$75	\$75	Operator
	SPU/Hr.	PU/Hr.	FRV/Hr.	
Gym				
Practice	\$75	\$85	\$170	Supervisor
Game	\$150	\$170	\$340	Supervisor+Grounds
	Flat Fee			
Scoreboard	\$50	\$50	\$100	Operator
Sound System	\$50	\$50	\$100	Operator
	SPU/Hr.	PU/Hr.	FRV/Hr.	
Soccer: Grass Field (3 hr. min)				
Practice	\$75	\$85	\$170	Supervisor
Match	\$75	\$100	\$200	Supervisor + Grounds
	Flat Fee			
Scoreboard	\$75	\$75	\$150	Operator
Sound System	\$75	\$75	\$150	Operator
	SPU/Hr.	PU/Hr.	FRV/Hr.	
Soccer: Stadium (3 hr. min)				
Practice	\$75	\$85	\$170	Supervisor
Match	\$100	\$125	\$350	Supervisor+Grounds
	Flat Fee			
Scoreboard	\$75	\$75	\$150	Operator
Sound System	\$75	\$75	\$150	Operator
	SPU/Hr.	PU/Hr.	FRV/Hr.	
Tennis for 6 courts				
Practice	\$60	\$70	\$140	Supervisor
Match	\$75	\$85	\$170	Supervisor/Grounds
	Flat Fee			
Timing System	\$75	\$80	\$150	Operator
Sound System	\$75	\$150	\$250	Operator
ATHLETIC RENTAL FEES				
	SPU/Hr.	PU/Hr.	FRV/Hr.	
*Swimming Pool (2 hr. min)				
Practice	\$45	\$55	\$110	Utility Engineer/Pool Operator
Meet (Two Teams)	\$75	\$85	\$200	Supervisor + Utility Engineer/Pool Operator
Meet (Three Teams or More)	\$100	\$110	\$220	Supervisor + Utility Engineer/Pool Operator
*Must have a lifeguard at all pool activities.				
	Flat Fee			
Scoreboard	\$50	\$50	\$100	Plus Operator
FACILITIES USAGE				
Utility Engineer/Pool Operator	\$75			
Grounds Services	\$60			
Custodial Services	\$60			
Audio Visual Technician Services	\$60			
Supervisor	\$150			

**Any fee change set by the Board of Trustees*

Approved by the Chancellor: May 4, 2012

Revised: October 25, 2014